

4A-300. Domestic relations forms; instructions for stage three (3) forms.

A. **Stage three (3) forms; scope.** The stage three (3) forms are the last forms that you must complete to dissolve your marriage (i.e., get a “divorce”). Once approved by the Court, the agreements and promises that you have made in these forms will settle financial matters between you and the other party, and will control your rights as a parent. When both parties sign the Marital Settlement Agreement (Form 4A-301 NMRA), the Custody Plan and Order (Form 4A-302 NMRA), and the Child Support Obligation and Order (Form 4A-303 NMRA), they may be enforced by either party as contracts. When the Court signs a Final Decree of Dissolution of Marriage (Form 4A-305 or 4A-306 NMRA), you will be divorced, and the Marital Settlement Agreement, the Custody Plan and Order, and the Child Support Obligation and Order will become legally binding on both of you. Any important changes to these agreements should be in writing and signed by both parties. These changes should be filed with the Court. You should be careful when filling out these forms, and be as complete as possible. It is highly recommended that you consult with an attorney.

B. **Marital Settlement Agreement.** A Marital Settlement Agreement (“MSA”) must be completed, signed by both parties, and filed with the Court in every dissolution of marriage case. (Use Form 4A-301 NMRA.) Although the MSA is called an “Agreement,” if the parties do not agree on its terms, the Court may use the terms of either party’s proposed MSA in its final order after a hearing. The MSA describes how you and the other party will divide your property and debts, and how you will settle any other financial matters, including whether one party will pay spousal support or make a cash payment to the other. When the parties sign the MSA or the Court signs and files a Final Decree of Dissolution of Marriage, the MSA is legally binding on both parties. *See* Paragraph A, above.

If you and the other party cannot agree on some or all of the terms of the MSA, you may request the assistance of a mediator, if available, by completing and filing a Motion for Referral to Mediation (child support or other financial issues) (Form 4A-205 NMRA) with the Court. If you do not believe a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, *see* Subparagraph (1) of Paragraph E of Form 4A-200 NMRA.

The MSA includes the following sections:

(1) ***Property we are dividing.*** This is where you describe how you will divide your property, including personal property, real property, bank and investment accounts, retirement plans, vehicles, and any other property. Examples of each type of property are included on the form. Complete the Personal Property List (Attachment A) to identify any personal property you own that is valuable to you and to show how you will divide it. If you have real property other than the home you lived in while you were married, complete the Real Property List (Attachment B) to identify the property and to show how you will divide it;

(2) ***Debts we are dividing.*** This is where you describe how you will divide your debts (e.g., credit cards, loans, etc.), cancel joint credit cards, file your taxes, and handle any issues that may come up with tax returns that were filed while you were married. Complete the Debt List (Attachment C) to identify each of your debts and to show how you will divide them;

(3) ***Cash payment.*** This is where you show any dollar amount that you have

agreed one party should pay the other to settle the division of your property and debts. This amount will be included in the Final Decree of Dissolution of Marriage as a judgment in favor of the party who is to receive the cash payment. This judgment may be enforced as provided by law;

(4) **Spousal support.** This is where you show any dollar amount that you have agreed one party should pay the other as monthly spousal support. If the Court approves this section, the amount and timing of spousal support can be modified only by a court order. For more information on spousal support, *see* Section 40-4-7 NMSA 1978;

(5) **Other statements by parties.** This is where you promise to do what is necessary to carry out your agreements in the MSA and how you will resolve any arguments you may have about the MSA in the future; and

(6) **Verification.** This is where you affirm the truth of the statements in the MSA and sign it under penalty of perjury.

C. **Custody plan and order.** A Custody Plan and Order must be completed and filed with the Court in every dissolution of marriage case when the parties are the parents of one or more children under eighteen (18) years of age or under the age of nineteen (19) and attending high school. (Use Form 4A-302 NMRA.) This document describes decisions that have been made, and how decisions will be made in the future, about the children. When the Court signs and files a Final Decree of Dissolution of Marriage, the Custody Plan and Order is legally binding on both parties. *See* Paragraph A, above.

If you and the other party cannot agree on the terms of a Custody Plan and Order, you may request the assistance of a mediator by completing and filing a Motion for Referral to Mediation (child custody, timesharing, or visitation) (Form 4A-204 NMRA) with the Court. If you do not believe that a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, *see* Form 4A-200(E)(1) NMRA. Some courts will not set a hearing on custody matters until the parties have tried mediation but failed to reach an agreement. Check with the Court before you request a hearing to find out if mediation is required.

The Custody Plan and Order includes the following sections:

(1) **Identification and contact information.** This is where you list the names and contact information of the parties and the children who are covered by the form;

(2) **Custody of the children.** This is where you describe the agreement you have reached about how you will make decisions and who will have custody of your children. If you choose sole legal custody, you must provide the specific reason why sole legal custody is in the best interests of the children. Also describe how often, when, and where the non-custodial parent will be allowed to visit the children, if at all. If you choose joint legal custody, you must complete the parenting plan in Subparagraphs one (1) through five (5) of Paragraph B to describe how you will share the custody of your children; and

(3) **Verification.** This is where you affirm the truth of the statements in the Custody Plan and Order and sign it under penalty of perjury.

D. **Child support obligation and Order.** A Child Support Obligation and Order must be completed and filed with the Court in every dissolution of marriage case when the

parties are the parents of one or more children under eighteen (18) years of age or under the age of nineteen (19) and attending high school. (Use Form 4A-303 NMRA.) This document describes how you will divide the expenses of raising the children, including child support and health insurance, and tax issues relating to the children. When the Court signs and files a Final Decree of Dissolution of Marriage, the Child Support Obligation and Order will become legally binding on both parties. *See* Paragraph A, above.

If you and the other party cannot agree on the terms of the Child Support Obligation and Order, you may request the assistance of a mediator by completing and filing a Motion for Referral to Mediation (child support or other financial issues) (Form 4A-205 NMRA) with the Court. If you do not believe that a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, *see* Form 4A-200(E)(1) NMRA.

The Child Support Obligation and Order includes the following sections:

(1) ***Identification and contact information.*** This is where you list the names and contact information of the parties and the children who are covered by the form;

(2) ***Child support.*** This is where you describe how you will share the expenses of raising your children. This portion of the form refers to these additional documents:

(a) ***Child support worksheet.*** To complete Paragraph A of this section, you must complete and attach a child support worksheet to your Child Support Obligation and Order. The worksheet will help you figure out the amount of child support required by law. The worksheet is available at Section 40-4-11.1 NMSA 1978, or you can find an interactive version at www.nmcourts.com by clicking on the “Family Law Forms” link and selecting “Child Support Worksheet.” The interactive worksheet will automatically calculate the monthly child support obligation. The amount shown on the child support worksheet will be awarded by the Court. If the parties need to deviate from the amount shown on the child support worksheet, they must request a different amount, explain why that amount is necessary, and the deviation must be approved by the Court; and

(b) ***Wage withholding order.*** Under Paragraph D of this section, you must tell the Court how you will begin wage withholding for child support. Payment of child support by wage withholding is mandatory unless otherwise agreed by the parties or ordered by the Court. Wage withholding will not take effect until the parties complete a Wage Withholding Order (Form 4A-304 NMRA) and submit it to the Court for filing, or until the Court signs and files the Child Support Obligation and Order and the parties open a case with the New Mexico Human Services Department, Child Support Enforcement Division (“CSED”). CSED can issue a notice of wage withholding for the parties on full service cases. You may request the Court to order wage withholding by attaching a completed Wage Withholding Order to the Child Support Obligation and Order; and

(3) ***Verification.*** This is where you affirm the truth of the statements in the Child Support Obligation and Order and sign it under penalty of perjury.

E. ***Final decree of dissolution of marriage.*** When the Court signs and files a Final Decree of Dissolution of Marriage, you and the other party will be divorced. You may request a Final Decree of Dissolution of Marriage as follows:

(1) ***Uncontested.*** If you and the other party agree on the terms of your MSA

(and Custody Plan and Order and Child Support Obligation and Order, if you have children), you may request a Final Decree of Dissolution of Marriage by doing the following:

(a) filing your completed MSA (and completed Custody Plan and Order and Child Support Obligation and Order, if you have children) with the Court Clerk's Office; and

(b) submitting a completed Final Decree of Dissolution of Marriage (Form 4A-305 (without children) or 4A-306 (with children) NMRA) to the judge for approval.

The Court may sign the Final Decree of Dissolution of Marriage without further notice, or it may order you and the other party to appear for a hearing. **WARNING:** Once the Court signs and files the Final Decree of Dissolution of Marriage, your divorce will be final, and the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order) will be binding as a court order on both parties. *See* Paragraph A, above;

(2) **Contested.** If you and the other party do not agree on the terms of your MSA (and Custody Plan and Order and Child Support Obligation and Order, if you have children) and you cannot submit completed forms to the Court, you should request a trial in your case by submitting a Request for Hearing (Form 4A-206 NMRA). For more information about how to request a hearing, *see* Form 4A-200(E)(1) NMRA.

The Court will set one or more hearings to resolve the remaining disagreements over the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order, if you have children). You must complete your own proposed MSA (and Custody Plan and Order and Child Support Obligation and Order if you have children) and Final Decree of Dissolution of Marriage (Form 4A-305 (without children) or Form 4A-306 (with children) NMRA) and bring them with you to the hearing. Once the Court has decided the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order if you have children), it will sign and file a Final Decree of Dissolution of Marriage, and you will be divorced from the other party; or

(3) **Default.** If more than thirty (30) days have passed since you filed and served the Petition for Dissolution of Marriage and the other party has not filed an answer or otherwise responded to your petition, you may be able to request a Final Decree of Dissolution of Marriage without the other party's participation. This is called a default judgment. *See* Form 4A-310 NMRA for instructions on how to request a default judgment and Final Decree of Dissolution of Marriage.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-301. Marital settlement agreement.

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

MARITAL SETTLEMENT AGREEMENT¹

_____ (*Petitioner's name*) and _____
(*Respondent's name*) are married and agree to follow this agreement beginning on the day we both sign it. We understand that the judge may make changes to this agreement and that we must comply with any changes made.

I. PROPERTY WE ARE DIVIDING²

- A. Personal property** (*such as clothing, furniture, jewelry, or artwork*). We have agreed how we will divide our property. We have attached a Personal Property List (Attachment A) showing all our property and which of us will receive that property.
(*Choose 1 or 2*)

☐ 1. Each of us already has possession of all the personal property we each expect to receive.

(*Or*)

☐ 2. We will make sure we each have our own property by _____ (*date*).

- B. Real Property** (*such as a home, mobile home, condominium, lot, or commercial building*).³

(*Choose all that apply*)

☐ 1. Neither of us has real property.

☐ 2. We have a marital home, which is located at _____ (*street address*), and we agree to do the following:

(Complete the correct section: a. Keep the home; b. Sell the home; or c. Other plan.)

- ☐ a. **Keep the home.** We agree to the following:
(Choose i or ii)
- ☐ i. Petitioner shall keep the home and be responsible for all debts related to the home.
- (Or)
- ☐ ii. Respondent shall keep the home and be responsible for all debts related to the home.

The person who keeps the home is called the “homeowner.” The other person is called the “moving spouse.”

We further agree to the following:
(Choose all that apply)

- ☐ iii. The amount owed to the moving spouse to buy out that person’s interest is \$ _____, which is included in the calculation of the Cash Payment, Section III, below.
- ☐ iv. The homeowner will apply to refinance the debt owed on the home no later than _____ (date).
- ☐ v. This is our plan for the homeowner to buy out the moving spouse’s interest in the home or to get the moving spouse off of the loan papers:⁴

- ☐ b. **Sell the home.** We are going to sell the home and divide the money from the sale as follows:

_____.

While the home is being sold, ☐ Petitioner (or) ☐ Respondent (choose one) will stay in the home.

Until the home sells, we will pay expenses, including mortgage, taxes and insurance, utility bills, and repairs for the home as follows (describe who is to pay and how much each person will pay):

_____.

We both will cooperate with the showing of the home and the sale of the home, including signing all paperwork needed in order to sell it and transfer title. Both of us will preserve the home in a reasonable way including the following things:

☐ c. **Other plan.** We have attached a separate sheet with our plan regarding the home.

☐ 3. One or both of us has other real property as set forth in the attached Real Property List (Attachment B), and we have agreed to divide that property as set forth in the attachment. If one party owes the other money for the division of the other real property, that amount should be included in the calculation of the Cash Payment, Section III, below.

C. **Bank and investment accounts** (*such as checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, or life insurance policies with cash value*).
(Choose 1 or 2)

☐ 1. We do not have any bank or investment accounts.

(Or)

☐ 2. We have the following bank or investment accounts and will divide them as follows:

Petitioner will have the following bank or investment accounts:

Name of institution

**Last four (4) digits
of account number**

<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

Respondent will have the following bank or investment accounts:

Name of institution

**Last four (4) digits
of account number**

<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

D. **Retirement Plans** (such as IRAs, retirement accounts, pension plans, or 401(k) plans).⁵
(Choose 1 or 2)

☐ 1. Neither of us has a retirement plan.

(Or)

☐ 2. We will be dividing our retirement plan(s) as follows:

Petitioner has the following retirement plan(s):	(Circle one to show whether Petitioner will KEEP the entire plan, DIVIDE the plan with Respondent, or TRANSFER the entire plan to Respondent)	If plan will be DIVIDED, the amount or % to be given to Respondent:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

Respondent has the following retirement plan(s):	(Circle one to show whether Respondent will KEEP the entire plan, DIVIDE the plan with Petitioner, or TRANSFER the entire plan to Petitioner)	If plan will be DIVIDED, the amount or % to be given to Petitioner:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

(Check and complete if retirement plan(s) will be divided)

☐ For the following retirement plans that will be divided, Petitioner shall prepare a Qualified Domestic Relations Order ("QDRO"), obtain the signature of the other party, and submit the QDRO to the Court by _____ (date).⁶ (List the plans)

☐ For the following retirement plans that will be divided, Respondent shall prepare a Qualified Domestic Relations Order ("QDRO"), obtain the signature of the other party, and submit the QDRO to the Court by _____ (date).⁶ (List the plans)

- E. **Vehicles** (*such as cars, trucks, motorcycles, recreational vehicles, boats, tractors, or trailers*).⁷
(Choose 1 or 2)

☐ 1. We do not have any vehicles.

(Or)

☐ 2. We have vehicles and are dividing them as follows:

Petitioner will keep the following vehicles and assume any debt relating to each vehicle (*provide the make, model, and year of each vehicle and list the vehicle identification number*):

Vehicle description

Vehicle Identification No.

_____.

_____.

Respondent will keep the following vehicles and assume any debt relating to each vehicle (*provide the make, model, and year of each vehicle and list the vehicle identification number*):

Vehicle description

Vehicle Identification No.

_____.

_____.

Each person listed above as keeping the vehicles will pay for the costs of the vehicles, including insurance. The parties will transfer title by the following date:

☐ _____ (date).

(Or)

☐ when the vehicle is paid off.

- F. **Other property** (*such as business interests, patents, trademarks, copyrights, royalties, manuscripts, or any other property*).
(Choose 1 or 2)

☐ 1. Neither party has any other property.

(Or)

☐ 2. One or both parties has the other property listed below, and we have

agreed to divide it as follows:

_____.

II. DEBTS WE ARE DIVIDING⁸

- A. Debt.** We attach a Debt List (Attachment C) which lists all of our debts, including mortgages, vehicle payments, taxes, credit cards, student loans, medical debts, judgments, and any other debts we may have. Any debt not listed is the responsibility of the person who created it. Each of us will pay debts we created prior to our marriage, unless we state differently here. Unless we state differently here, a person who takes property (such as a house or car) with a debt associated with it, will take the debt.

(Choose all that apply)

☐ We have no debt from our marriage.

☐ We will pay our debts as listed on Attachment C.

☐ The amount owed from _____ to _____ for the division of the debts is \$_____, which is included in the calculation of the Cash Payment, Section III, below.

- B. Credit cards and charge cards.** Each of us will turn in and cancel all joint credit cards, or we will have the credit card company take the other person's name off of the account.
- C. Taxes.** We will share information necessary to correctly file our income tax returns. We will get the help we need to file our taxes.
- D. Problem with tax returns.** If any of our returns that we filed together are audited or contested, we will meet to decide what to do. If we cannot decide who pays the taxes owed or who gets any refund, we will ask a judge to decide at the time the problem comes up.
- E. Legal promise.** We understand that if either of us fails to pay the debts we have promised to pay, the other party may end up making that payment. If that happens, the party who should have paid promises to repay the other party, including any other extra costs caused by the failure to pay, such as attorney fees, late fees, and interest charged by the creditor.

III. CASH PAYMENT

(If the parties have agreed that one party should pay money to the other in any of the preceding sections, those amounts should be included in this section.)

In order to settle the division of property and debts, we agree that _____ (name) shall pay _____ (name) the amount of \$_____ no later than _____ (date). We agree that judgment shall enter in this amount for _____ (name). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

IV. SPOUSAL SUPPORT⁹

(Choose 1 or 2)

- ☐ 1. **No spousal support.** Each of us can support ourselves and neither will pay spousal support to the other.

(Or)

- ☐ 2. **Spousal support.** ☐ Petitioner (or) ☐ Respondent (choose one) will pay spousal support to the other spouse.

- a. Spousal support shall be paid as follows:

(Choose i, ii, or iii)

- ☐ i. \$_____ per month on the _____
(date) of each month for _____ (period
of time), which is not modifiable.

(Or)

- ☐ ii. \$_____ per month on the _____
(date) of each month until modified by the court.

- ☐ iii. This is our other plan:

- b. For tax purposes, we will treat spousal support as follows:

(Choose i, ii, or iii)

- ☐ i. The person paying spousal support will deduct the payments on [his] [her] income tax return. The person receiving support will show the support as income on [his] [her] income tax return. Spousal support will end if the person to receive the support dies.

(Or)

- ☐ ii. The person paying spousal support will not deduct the payments on [his] [her] income tax return. The person receiving spousal support will not include the payment as income on [his] [her] income tax return.

V. OTHER STATEMENTS BY PARTIES

- A. **Documents.** We will each sign the documents we need to divide the property and debts, and each will deliver to the other party all documents related to property and debt awarded to the other.

- B. **Future issues.**¹⁰

1. Either of us may ask the judge for help if
- one of us does not do what we said in this agreement; or
 - we cannot agree on what this agreement says.

We understand that the judge may make one party pay costs such as attorney fees.

2. If we forgot or failed to list any property or debt, we will seek the help we need to divide that property or debt.¹¹

C. Final agreement. This is the final and entire agreement of the parties. Neither party is relying on other promises or statements that are not specifically included in this document.

VERIFICATION

I affirm under penalty of perjury under the laws of the State of New Mexico the following:

I have read this agreement and agree with everything in it; I have read the warnings and cautions listed in this agreement;

I have disclosed all assets and debts known to me, and I understand that the other party is relying on my disclosures;

I have gotten the help I needed before signing this agreement; and this document and the statements in it are true and correct to the best of my knowledge and belief.

I understand that I can be punished both civilly and criminally if any information in this agreement is false.

Petitioner's signature

Date: _____

Mailing address: _____

Telephone

Respondent's signature

Date: _____

Mailing address: _____

Telephone

ATTACHMENT A: PERSONAL PROPERTY LIST

(Attach additional pages if needed)

List all items of value to you, such as furniture, household items, electronics, art, jewelry, and tools.

Item	Dollar Value	Will belong to (<i>check box for each item</i>):	
		Petitioner	Respondent

ATTACHMENT B: REAL PROPERTY LIST

(Attach additional pages if needed)

List all homes (other than the marital home), land, or other real property owned by Petitioner or Respondent.

Other Real Property

1. Address/Description of property: _____

We agree to do the following with the property after the divorce:

(Choose all that apply)

_____ Petitioner will keep the property;

_____ Respondent will keep the property;

_____ [] Petitioner [] Respondent shall pay the other party \$ _____.

_____ The property will be sold and the proceeds divided as follows:

_____ Other plan:

2. Address/Description of property: _____

We agree to do the following with the property after the divorce:

(Choose all that apply)

_____ Petitioner will keep the property;

_____ Respondent will keep the property;

_____ [] Petitioner [] Respondent shall pay the other party \$ _____.

_____ The property will be sold and the proceeds divided as follows:

_____ Other plan:

ATTACHMENT C: DEBT LIST
(Attach additional pages if needed)

(NOTE: This document is a public document. DO NOT list the full account number for any credit card or other loan information that you would not want to make public.)

We understand that this agreement may not bind creditors.

Creditor	Last four (4) numbers on account	Amount owed	Will be paid by (<i>check box</i>):	
			Petitioner	Respondent

USE NOTE

1. A marital settlement agreement must be filed in every dissolution of marriage cause. *See* Forms 4A-100, -200, and -300 NMRA for additional information about completing and filing this form.

2. It is highly recommended that you consult with an attorney. Whether property is separate or community is a complicated issue. There can be serious consequences, including tax consequences, for the division of property and for not properly transferring property, including retirement accounts. You may need separate documents to transfer divided property.

3. To transfer land, a building or a home other than a mobile home, the parties must prepare, sign and record a deed in the real property records where the property is located. To transfer a mobile home, contact the Motor Vehicle Division.

4. If both parties are listed on the mortgage, you must seek lender approval to remove the moving spouse from the mortgage and from responsibility for payment.

5. If the parties are going to divide a retirement plan, contact the retirement plan before completing and filing this form. Depending on the plan, a QDRO may be necessary. If the parties cannot agree on the terms of the QDRO, they should request a hearing.

6. CAUTION: You may want to consult an attorney about your retirement, pension, deferred compensation, 401k plans, and/or benefits. If you do not see an attorney regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. An attorney can help you prepare these documents.

7. To transfer vehicles or a mobile home, contact the Motor Vehicle Division.

8. This agreement may not affect the rights of creditors even when approved by the Court as part of the final decree. The creditor may expect payment from you no matter who agrees to pay the debt in this agreement. See an attorney if you have questions about separate and community debts and separate and community property.

9. There can be serious consequences resulting from spousal support awards. If your agreement includes spousal support, you should consult with an attorney.

10. Consult with an attorney if problems arise later.

11. To divide property or debts left out of this agreement, *see* Section 40-4-20(A) NMSA 1978.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-302. Custody plan and order.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

CUSTODY PLAN AND ORDER¹

_____ and _____ are the parents of the children listed below. This document is the custody plan and is in the best interests of the children.

I. IDENTIFICATION AND CONTACT INFORMATION

Parent's name

**Physical address and
phone number**

**Place of employment
and phone number**

Child's name

Year of birth

Age

[] The parties shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

II. CUSTODY OF THE CHILDREN²

(Choose either Option A, Sole legal custody, or Option B, Joint legal custody)

☐ A. **Sole legal custody and visitation plan. (Do not fill out Option B if you choose this option)**

(Complete 1, 2, and 3)

1. _____ (name of parent with sole custody) shall have sole legal custody of the children. The parent with sole custody shall make the important decisions regarding the children.

2. The reason that sole custody is in the best interest of the children is because:

3. This is the visitation plan:

(Choose a, b, or c)

☐ a. There shall be **no visitation** until further order of the Court.

(Or)

☐ b. _____ (name of other parent) shall have **unsupervised visitation** with the children as follows: (Fully describe visitation plan to include who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)

(Or)

☐ c. _____ (name of other parent) shall have **supervised visitation** with the children as follows: (Fully describe visitation plan to include who shall supervise the visitation, who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)

[] B. **Joint legal custody and parenting plan. (Do not fill out Option A if you choose this option)**

1. **Important decisions.** The parents shall share joint legal custody of the children and shall make important decisions about the children together. No change regarding any of the following shall happen unless the parents both agree to the change in writing or the court changes it:

a. City and county of residence: _____

b. Religion: _____

c. Activities: _____

	Name	Address and telephone
d. Doctor	_____	_____
e. Dentist	_____	_____
f. School	_____	_____
g. Child care	_____	_____
h. Other	_____	_____

2. **Solving arguments.** The parents shall resolve any parenting or time-sharing dispute regarding the children in this way (*steps continue until problem solved*):

- a. Talk together; or
b. Communicate in writing as follows:
i. parent requests change, and gives reasons for the change; and
ii. answering parent sends response within _____ days.

If the answering parent does not agree to the change, that parent must say why, and, if possible, make a new proposal.

- c. Take the following steps:
(*check all that apply and number them if there is a particular order*)
[] _____. Go to couple, family, or other counseling;

- ☐ _____. Go to mediation with a neutral party;
☐ _____. Other: _____;
☐ _____. Go to court.

3. ***Timesharing schedule.***

(Complete "Schedule 1" or "Schedule 2" below.)

- ☐ **Schedule 1. Same schedule each week or every two weeks.** (Set out the time that each parent shall have the children for that day.)

Week 1	_____'s time (name of parent)	_____'s time (name of parent)
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____

Week 2	_____'s time (name of parent)	_____'s time (name of parent)
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____

- ☐ **Schedule 2. Write your own schedule.** (Write your own schedule here or attach a separate sheet or calendar or make additions to Schedule 1.)

4. ***Vacation and holiday plan.***

- a. **Vacations.** The parents shall each have ____ [days]
 [weeks] (*circle one*) of uninterrupted time with the children
 each year. Each parent shall give the other parent at least

____ [days] [weeks] (*circle one*) notice of the vacation time.

- b. **Holidays.** Regardless of the day of the week, the children shall spend holidays as follows: (*Insert name of parent who will have the children on each holiday*)

Holidays:	Even year	Odd Year	Times (if split)
Mother's Day	_____	_____	From____ To _____
Father's Day	_____	_____	From____ To _____
Child's Birthday	_____	_____	From____ To _____
Halloween	_____	_____	From____ To _____
Thanksgiving break	_____	_____	From____ To _____
Winter religious holidays	_____	_____	From____ To _____
1st 1/2 winter break	_____	_____	From____ To _____
2nd 1/2 winter break	_____	_____	From____ To _____
Spring Break	_____	_____	From____ To _____
July 4th	_____	_____	From____ To _____
Other religious holidays	_____	_____	From____ To _____
Other:	_____	_____	From____ To _____

The Monday of a 3-day weekend due to a school, federal, or state holiday is the same as the Sunday schedule unless we agree differently.

5. ***Details about the timesharing.***

- a. **Communication.** Each parent may have reasonable communication with the children at all times. Neither parent shall unreasonably interfere with the children's communications with the other parent.

- b. **Transfer of children.** Responsibility for transferring the children from one parent to the other shall be as follows (*write what you will do here*):

- c. **Long-distance transfer of children.** Responsibility for transferring the children from one parent to the other in long-distance arrangements shall be as follows (*write down what you will do here*):

- d. **Emergencies.** If there is a medical emergency, the parent with the children shall try to call the other parent about the emergency. If the other parent cannot be reached, any decision for emergency medical treatment shall be made by the available parent in the best interest of the children.

- e. **Changes.** Each parent may ask the other for changes to this schedule. The other parent has the right to say "no." If the other parent says "no," the parent asking for changes shall not argue or criticize the other parent's decision.

- f. **Review of plan.** The parents agree to meet [] every year (or) [] every ____ years to make sure this plan continues to work well.

VERIFICATION

I affirm under penalty of perjury under the laws of the State of New Mexico that I have read this document, that I agree with everything in it, and that the statements in it are true and correct to the best of my knowledge and belief.

Name of parent (*print*)

Parent's signature

Date

Mailing address

Physical address

Telephone

Date

Name of parent (*print*)

Parent's signature

Date

Mailing address

Physical address

Telephone

Approved, adopted, and ordered
by the District Court

District Court Judge

USE NOTE

1. A custody plan must be filed in every dissolution of marriage case if the parties have minor children or a child under nineteen years of age who is attending high school. For more information about filling out this form, *see* Form 4A-300 NMRA.

2. The parties should understand the difference between the rights and obligations of joint custodians and a sole custodian. Descriptions of these terms are set out in NMSA 1978, Section 40-4-9.1. See an attorney with questions you may have. Joint custody does not imply an equal division of the child's time between the parents or an equal division of financial responsibility for the child.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-303. Child support obligation and order.

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

CHILD SUPPORT OBLIGATION AND ORDER¹

_____ and _____ are the parents of the children listed below.

I. IDENTIFICATION AND CONTACT INFORMATION

Parent's name

**Physical address and
phone number**

**Place of employment
and phone number**

Child's name

Year of birth

Age

[] The parents shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

II. CHILD SUPPORT²

- A. **Child Support Worksheet.**³ A signed child support worksheet is attached to this plan. *(Complete and sign a child support worksheet prior to completing this section.)*

Child support: _____ pays _____ \$ _____
per month. Payments shall begin on _____ (date) and shall be paid
in the amount of \$ _____ every [] week [] two weeks [] month.
Payments shall continue each month until the youngest child turns eighteen (18);
however, if the youngest child turns eighteen (18) while still attending high
school, payments shall continue until the month the child graduates or turns
nineteen (19), whichever occurs first.⁴

(Choose 1 or 2)

- [] 1. This amount is the amount shown on the worksheet;
(Or)
[] 2. This is a deviation from the amount shown on the child support
worksheet because *(fill in the reason here)*⁵

_____.

- B. **Health insurance coverage**⁶

(Choose 1, 2, or 3)

- [] 1. _____ (name of parent) shall keep the minor
children covered by health and dental insurance under the policy of
insurance available to [him] [her] from [his] [her] employer or
other group health care insurance plan.

(Or)

- [] 2. Neither parent has private health or dental insurance coverage
available at a reasonable cost. If the children are covered under
Medicaid, the child support obligor shall pay a cash medical
support payment as determined at a subsequent hearing in which
the State of New Mexico, Child Support Enforcement Division
("CSED"), has been given sufficient notice, or upon the stipulation
of the parties and with the agreement of CSED. The notification to
and agreement of CSED is required only for cash medical support.

(Or)

- [] 3. Other health insurance coverage shall be provided as follows:

_____.

C. **Additional healthcare expenses to be determined by percentage.** The parents shall split the cost of uncovered necessary healthcare expenses in proportion to their income on the child support worksheet.

D. **Wage withholding of child support.**

(Choose and complete 1 or 2)

☐ 1. **Withhold wages for child support.** Child support payment shall be withheld from _____'s paycheck.⁷

(Choose a or b)

☐ a. Attached is a completed Form 4A-304 NMRA Wage Withholding Order which directs all withheld payments to the Child Support Enforcement Division ("CSED").

(Or)

☐ b. _____ *(name of parent)* shall take a copy of this child support obligation after it is signed by the Court to CSED to open a case and to request that CSED issue a notice of wage withholding on [his] [her] behalf.

(Or)

☐ 2. **Other plan.** Wage withholding is not appropriate at this time as the parents have made the following alternate arrangements for the payment of support *(describe alternate payment arrangements, subject to approval by the Court)*:

_____.

E. **Health and dental insurance.** The parents shall do the following:

1. follow the insurance plan in selecting a doctor or dentist;
2. use doctors and dentists who are part of the insurance plan;
3. make sure each parent has a copy of the insurance card and policy;
and
4. cooperate and work together to promptly submit all insurance forms.

F. **Exchange of information.** Once a year either parent can ask, in writing, for both parents to exchange the following information *(this paragraph is required by statute, Section 40-4-11.4 NMSA 1978)*:⁸

1. federal and state tax returns for the prior year;
2. W-2 statements for the prior year;
3. IRS form 1099s for the prior year;

4. work related day care statements for the prior year;
5. dependent medical insurance premiums for the prior year; and
6. wage and payroll statements for the four months prior to the request.

G. **Tax issues.**⁹ This is the plan about tax issues, such as the dependency exemption, that relate to the children:

- ☐ Follow IRS regulations; or
☐ Adopt another plan as follows:

_____.

H. **Other expenses.** Each parent shall provide the children with items they need while they are with that parent.

- ☐ (*If applicable*) The parents shall pay for special activities as follows:

_____.

VERIFICATION

I affirm under penalty of perjury under the laws of the State of New Mexico that I have read this document, that I agree with everything in it, and that the statements in it are true and correct to the best of my knowledge and belief.

Name of parent (*print*)

Parent's signature

Mailing address

Telephone

Name of parent (*print*)

Parent's signature

Mailing address

Telephone

Approved, adopted, and ordered by the
District Court

Date

District Court Judge

USE NOTE

1. A child support obligation must be filed in every dissolution of marriage case if the parties have minor children or a child under nineteen years of age who is attending high school. For more information about filling out this form, *see* Form 4A-300 NMRA.
2. If child support is not paid in a timely manner, interest will be added to the amount owed at the rate provided by law. *See* NMSA 1978, Section 40-4-7.3 for accrual of interest on delinquent child support.
3. *See* NMSA 1978, Section 40-4-11.1 for the child support worksheet. An interactive version of this worksheet may be found at www.nmcourts.com, click on “Family Law Forms.” *See also* Form 4A-300 NMRA for a further explanation of the child support worksheet. The child support worksheet is used to determine the monthly child support obligation.
4. If child support is being paid for more than one child, the end of a child support obligation for a child may be a change of circumstances that justifies a different child support amount. A new child support worksheet must be completed and adopted by the court. If your child has an intellectual or physical disability, you should consult with an attorney.
5. The judge may or may not accept a proposed change from the worksheet amount. Proposed changes may be appropriate if application of the child support guidelines would be unjust or inappropriate, or create a substantial hardship. If child support has been ordered in another proceeding, tell the court about it here and attach that child support worksheet.
6. *See* NMSA 1978, Section 40-4C-4 for medical support orders. In some circumstances the court may order both parties to provide employer-provided health insurance.
7. *See* Form 4A-304 NMRA for the Wage Withholding Order. Wage withholding is required unless the parties show good cause and make alternate payment arrangements. Wage withholding is mandatory if the children are receiving public assistance. Payments made by wage withholding go through the Title IV-D agency (CSED) and cannot be directly sent by the employer to a party. Either party may request the court to enter a Wage Withholding Order. *See also* Form 4A-300 NMRA for a further explanation of the Wage Withholding Order.
8. You need a court order to adjust child support payments.
9. Consult with a professional about tax issues that relate to any children.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-304. Wage withholding order (*domestic relations actions*).

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

WAGE WITHHOLDING ORDER
(*domestic relations actions*)¹

This matter, having come before the Court for entry of a wage withholding order and the parties having submitted a completed Income Withholding for Support Form,² the Court
ORDERS:

1. The provisions of the Income Withholding for Support Form, attached as Exhibit A and signed by the Court, are incorporated by reference and adopted in full.
2. Wage withholding shall be implemented as stated in Exhibit A.
3. Exhibit A, which includes personal identifier information that is necessary to include in the record, shall be protected in accordance with Rule 1-079 NMRA if requested to be sealed by the parties.

IT IS SO ORDERED.

Date

District judge

APPROVED:

Mother's signature: _____

Mailing address: _____

Telephone: _____

Father's signature: _____

Mailing address: _____

Telephone: _____

USE NOTE

1. *See* Form 4A-300 NMRA for an explanation of the Wage Withholding Order.
2. A completed Income Withholding for Support Form (OMB 0970-0154) is required in all cases where a Wage Withholding Order is issued by the Court. A copy of the form is available at http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154.pdf. Instructions for filling out the form are available at http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154_instructions.pdf. The form and instructions also may be obtained from the New Mexico Human Services Department, Child Support Enforcement Division.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013.]

4A-305. Final decree of dissolution of marriage (without children).

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

FINAL DECREE OF DISSOLUTION OF MARRIAGE
***(without children)*¹**

This matter was brought before the Court to enter a Final Decree of Dissolution of Marriage by Petitioner and Respondent (“the parties”).

This decree references one of the following: *(select only one)*

☐ A Marital Settlement Agreement that has been signed and filed by the parties, and that settles the claims related to their marital relationship;

(Or)

☐ A Marital Settlement Agreement that is attached as Exhibit A, because the parties did not settle the claims related to their marital relationship.²

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties.
2. The parties are incompatible.
3. The Marital Settlement Agreement is fair and reasonable and should be adopted by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.

2. The parties are ordered to comply with the terms of the Marital Settlement Agreement, which *(select one)*

☐ has been filed with the Court and is incorporated here by reference.

(Or)

☐ is attached and adopted as the order of the Court.

(Select and complete the following paragraphs if applicable)

- ☐ 3. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plans referenced in the Marital Settlement Agreement.
- ☐ 4. Judgment in favor of ☐ Petitioner (or) ☐ Respondent is awarded in the amount of \$_____, as set forth in Section III of the Marital Settlement Agreement (Cash Payment). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.
- ☐ 5. Petitioner's name is restored to the former name of _____.
- ☐ 6. Respondent's name is restored to the former name of _____.

SO ORDERED:

District Court Judge

By signing below I affirm under penalty of perjury under the laws of the State of New Mexico that everything in this document is true and correct to the best of my knowledge, information and belief, including the following:

1. **Right to trial is waived.** I understand that by signing the Final Decree, I am waiving my right to a trial before a Judge.
2. **No duress or coercion; complete agreement.** I am not under force, threats, duress, coercion or undue influence from anyone, including the other party, to sign this Final Decree. This Decree and any attachments that I have signed is our full agreement. I have not agreed to something different from what is stated in writing in this Decree.
3. **Legal advice.** I understand that even if I am representing myself without an attorney, I have the right to be represented by an attorney. I have the right to call an attorney and get legal advice before I sign this Final Decree.

Petitioner's signature

Date: _____

Mailing address: _____

Telephone: _____

Respondent's signature

Date: _____

Mailing address: _____

Telephone: _____

USE NOTE

1. This form may be used anywhere in this state by the court to enter a final decree of dissolution of marriage when the parties do not have minor children or a child under nineteen years of age who is attending high school.
2. If the parties are not in agreement, each party must complete and submit a

proposed draft of this document to the court with this decree. *See* Form 4A-301 NMRA (Marital Settlement Agreement). The court may approve some or all of the proposed terms of either party, or it may order any other terms that it deems are just and proper.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings or papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-306. Final decree of dissolution of marriage (with children).

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

FINAL DECREE OF DISSOLUTION OF MARRIAGE
(with children)¹

This matter was brought before the Court to enter a Final Decree of Dissolution of Marriage by Petitioner and Respondent (“the parties”).

The following documents are referenced in this decree:

- ☐ A Marital Settlement Agreement (*select only one*),
 - ☐ signed and filed by the parties, that settles the claims related to their marital relationship;
- (Or)
- ☐ attached as Exhibit A, because the parties did not agree on the terms of a Marital Settlement Agreement;²
- ☐ A Custody Plan and Order (*select only one*),
 - ☐ signed and submitted by the parties, that sets out the custody of their children;
- (Or)
- ☐ attached as Exhibit B, because the parties did not agree on the terms of a Custody Plan;²
- ☐ A Child Support Obligation and Order, including a child support worksheet (*select only one*),
 - ☐ signed and submitted by the parties, that sets out the child support for their children;
- (Or)
- ☐ attached as Exhibit C, because the parties did not agree on the terms of a Child Support Obligation.²

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties and the children.
2. The parties are incompatible.
3. The Marital Settlement Agreement is fair and reasonable and should be adopted

by the Court.

4. The Custody Plan and Order is fair and reasonable and should be adopted by the Court.

5. The Child Support Obligation and Order is fair and reasonable and should be adopted by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.

2. The parties are ordered to comply with the terms of the Marital Settlement Agreement, which (*select one*)

☐ has been filed with the Court and is incorporated here by reference.

(*Or*)

☐ is attached and adopted as the order of the Court.

3. The parties are ordered to comply with the terms of the Custody Plan and Order, which (*select one*)

☐ has been adopted by the Court and is incorporated here by reference.

(*Or*)

☐ is attached and adopted as the order of the Court.

4. The parties are ordered to comply with the terms of the Child Support Obligation and Order, which (*select one*)

☐ has been adopted by the Court and is incorporated here by reference.

(*Or*)

☐ is attached and adopted as the order of the Court.

5. ☐ Petitioner (*or*) ☐ Respondent is ordered to pay child support in the amount of \$_____ per month to the other parent.

6. Legal custody of the children is as follows (*select one*):

☐ The parties have joint legal custody of the children.

(*Or*)

☐ ☐ Petitioner (*or*) ☐ Respondent has sole legal custody of the children.

7. The Court has continuing jurisdiction over issues relating to the children of the marriage until the children reach the age of majority as provided by law.

(*Select and complete the following paragraphs if applicable*)

☐ 8. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plans referenced in the Marital Settlement Agreement.

☐ 9. Judgment in favor of ☐ Petitioner (*or*) ☐ Respondent is awarded in the amount of \$_____, as set forth in Section III of the Marital Settlement Agreement (Cash Payment). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

☐ 10. Petitioner's name is restored to the former name of _____.

☐ 11. Respondent's name is restored to the former name of _____.

SO ORDERED:

District Court Judge

By signing below I affirm under penalty of perjury under the laws of the State of New Mexico that everything in this document is true and correct to the best of my knowledge, information and belief, including the following:

1. **Right to trial is waived.** I understand that by signing the Final Decree, I am waiving my right to a trial before a Judge.
2. **No duress or coercion; complete agreement.** I am not under force, threats, duress, coercion or undue influence from anyone, including the other party, to sign this Final Decree. This Decree and any attachments that I have signed is our full agreement. I have not agreed to something different from what is stated in writing in this Decree.
3. **Legal advice.** I understand that even if I am representing myself without an attorney, I have the right to be represented by an attorney. I have the right to call an attorney and get legal advice before I sign this Final Decree.

Petitioner's signature

Date: _____

Mailing address: _____

Telephone: _____

Respondent's signature

Date: _____

Mailing address: _____

Telephone: _____

USE NOTE

1. This form may be used anywhere in this state by the court to enter a final decree of dissolution of marriage when the parties have minor children or a child under nineteen years of age who is attending high school.

2. If the parties are not in agreement, each party must complete and submit a proposed draft of this document to the court with this decree. *See* Form 4A-301 NMRA (Marital Settlement Agreement); Form 4A-302 NMRA (Custody Plan and Order); Form 4A-303 NMRA (Child Support Obligation and Order). The court may approve some or all of the proposed terms of either party, or it may order any other terms that it deems are just and proper.

[Approved by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-310. Domestic relations forms; instructions for default proceedings.

If you are the Petitioner AND more than thirty (30) days have passed since you served the Respondent with the Petition AND the Respondent has failed to file a Response or to otherwise respond to the Petition, you may be granted a divorce without the agreement of the Respondent. This is called a default judgment. You may request a default judgment and final decree of dissolution of marriage by doing the following:

A. Complete and file with the Court Clerk's Office an Affidavit as to Respondent's Failure To Plead or Otherwise Defend (Form 4A-311 NMRA); your affidavit must include a certificate verifying the other party's active duty military status, which you can obtain online at https://dmdc.osd.mil/appj/scra/single_record.xhtml; when you file your affidavit, bring a blank Certificate as to the State of the Record (Form 4A-312 NMRA) and a self-addressed, stamped envelope so that the Clerk can return a completed certificate to you;

B. After you receive the completed Certificate as to the State of the Record (Form 4A-312 NMRA) from the Clerk, attach the certificate to an Application for Default Judgment and Final Decree of Dissolution of Marriage (Form 4A-313 NMRA), and file the application with the Court Clerk's Office; and

C. Complete and submit to the judge a copy of the Default Judgment and Final Decree of Dissolution of Marriage (Form 4A-314 NMRA (without children) or Form 4A-315 NMRA (with children)). Check with the clerk of your district to determine if your district has additional requirements.

The Court may sign and file the Default Judgment and Final Decree of Dissolution of Marriage without further notice, or it may order you to appear for a hearing. **WARNING:** Once the Court enters the Default Judgment and Final Decree of Dissolution of Marriage, your divorce will be final, and the terms of your Default Judgment and Final Decree of Dissolution of Marriage will be legally binding on both parties.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; approved by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-311. Affidavit as to Respondent's failure to plead or otherwise defend (*domestic relations actions*).

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

**AFFIDAVIT AS TO RESPONDENT'S
FAILURE TO PLEAD OR OTHERWISE DEFEND
(*domestic relations actions*)¹**

Petitioner affirms under penalty of perjury under the laws of the State of New Mexico that the following statements are true and correct:

(1) I am the Petitioner, and I submit this Affidavit to show that Respondent has failed to file an answer or otherwise respond to the Petition For Dissolution of Marriage that I filed on _____.

(2) Respondent was served as follows (*choose and complete one*):

☐ As shown by the Affidavit of Service filed on _____, Respondent was personally served on _____.

(*Or*)

☐ As shown by the Affidavit of Publication filed on _____, Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

(4) Upon information and belief, Respondent is not in the military service of the United States and is not an infant or incompetent person.

☐ **YES (required)** I have attached a certificate verifying Respondent's active duty status.²

WHEREFORE, Petitioner asks the Clerk of this Court to certify Respondent's Default.

Signature of party

Name (*printed*)

Mailing address

City, state, and zip code (*print*)

Telephone number

VERIFICATION

I, _____, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Affidavit are true to the best of my knowledge and belief.

Signature of Petitioner

Date

USE NOTE

1. This form may be used anywhere in this state to request the clerk of the court to issue a certificate as to the state of the record (Form 4A-312 NMRA) in a domestic relations action.

2. This affidavit must include a certificate verifying the petitioner's active duty status, which you can obtain online at https://dmdc.osd.mil/appj/scra/single_record.xhtml.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-312. Certificate as to the state of the record (*domestic relations actions*).

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

CERTIFICATE AS TO THE STATE OF THE RECORD
(*domestic relations actions*)¹

I, Clerk of the District Court of this Judicial District in this County, New Mexico, pursuant to the Affidavit as to Respondent's Failure to Plead or Otherwise Defend on file herein, certify as follows:

(1) The Petition for Dissolution of Marriage was filed on _____.

(2) Petitioner was served as follows (*choose and complete one*):

☐ As shown by the Affidavit of Service filed on _____,
Respondent was personally served on _____.

(*Or*)

☐ As shown by the Affidavit of Publication filed on _____,
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

WHEREFORE, I, _____, hereby certify Respondent's default.

Clerk of the District Court

By: _____
Deputy Clerk

USE NOTE

1. This form may be used anywhere in this state by the clerk of the court to certify a default in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by

Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-313. Application for default judgment and final decree of dissolution of marriage.

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

**APPLICATION FOR DEFAULT JUDGMENT
AND FINAL DECREE OF DISSOLUTION OF MARRIAGE¹**

Petitioner applies for entry of judgment by default against Respondent and in support of the application states:

(1) The statements in the Affidavit as to Respondent's Failure to Plead or Otherwise Defend are included here by reference.

(2) As shown by the Certificate as to the State of the Record filed in this case on _____, the Clerk of this Court has certified Respondent's default.

WHEREFORE, Petitioner applies to the Court for entry of judgment by default against the Respondent as requested in the Petition for Dissolution of Marriage, and as more specifically stated in the proposed Default Judgment and Final Decree of Dissolution of Marriage submitted with this application.

Signature of party

Name (*printed*)

Mailing address

City, state, and zip code (*print*)

Telephone number

USE NOTE

1. This form may be used anywhere in this state to request the court to enter a default judgment and final decree of dissolution of marriage in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]